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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/727,154	12/02/2003	Kenneth A. Vlazny	3127-6066US	5283	
24247	7590	02/12/2009	EXAMINER		
TRASK BRITT		RADA, ALEX P			
P.O. BOX 2550		ART UNIT		PAPER NUMBER	
SALT LAKE CITY, UT 84110		3714			
		NOTIFICATION DATE		DELIVERY MODE	
		02/12/2009		ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/727,154	VLAZNY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ALEX P. RADA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2008.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 26-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 26-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the Request for Continued Examination (RCE) filed 10 December 2008 wherein applicant amends claims 26-27, 29, 33-34, 36 and claims 26-39 are pending in this application.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 26-39 are rejected under 35 U.S.C. 102(e) as being anticipated by LaNeve (US Pub. No. 2003/0125822).

Regarding claim 26 LaNeve discloses a method of conducting a pari-mutuel gaming activity comprising: providing at least one patron an opportunity to select at least one runner from a list of

runners (figures 3-5; wherein selecting at least one runner from a list of runners is shown); responsive to the at least one patron selecting the at least one runner, providing the at least one patron an opportunity to place at least one first wager on a race wherein the at least one runner makes up a portion of the at least one first wager (figures 3-5; wherein when the patron selects a runner, the probable payouts for that particular runner is shown for a particular wager shown); responsive to the at least one patron placing the at least one first wager, providing the at least one patron with an opportunity to place at least one second wager on the race (figures 3-5; wherein the patron is capable of placing another wager shown); and displaying at least one indicia of a wager selected by the at least one patron (figures 3-5 and paragraphs [0027-0039]; wherein the graphical user interface displays to the patron wager or wagers being placed).

Regarding claims 27 and 34, LaNeve discloses wherein the at least one second wager includes the at least one runner of the at least one first wager (figures 3-5 and paragraphs [0027-0039]; wherein the patron selecting horse "1" for with horse "3" for a quiniela shown and wherein the first wager the patron selected horse "1").

Regarding claims 28 and 35, LaNeve discloses wherein the at least one second wager is not related to the at least one first wager (figures 3-5 and paragraphs [0027-0039]; wherein patron is capable of selecting different horse(s) for the second wager shown).

Regarding claims 29 and 36, LaNeve discloses wherein responsive to the at least one patron placing the at least one first wager, providing the at least one patron an opportunity to select at least another runner; wherein the at least another runner makes up a portion of the at least one second wager (figures 3-5 and paragraphs [0027-0039]; wherein patron may select different runners for different types of wager combinations shown).

Regarding claims 30 and 37, LaNeve discloses wherein the presenting the at least one patron with the opportunity to place the at least one second wager comprises: generating a pool of wager options including the at least one runner and the at least another runner; and displaying the pool of wager options to the least one patron (figures 4-5 and paragraphs [0027-0039] & [0044-0046]; wherein the patron may select what type of pool wager and determine the at least one runner for a particular pool wager shown).

Regarding claims 31 and 38, LaNeve discloses wherein marking an area of the displayed pool of wager options representing the at least one runner (figures 3-5; wherein a graphical user interface is shown).

Regarding claims 32 and 39, LaNeve discloses wherein displaying tote data in conjunction with at least one of the at least one first wager and the at least one second wager (figures 3-5; wherein the tote data is shown).

Regarding claim 33, LaNeve discloses a display element for displaying information associated with a pari-mutuel gaming activity (figures 3-5; wherein the displayed information associated with a pari-mutuel gaming activity is shown); an input device for interacting with at least one patron (figure 2; wherein an input device 108 is shown); a computer operatively configured with software (figure 2 and paragraphs [0020-0026]); and wherein the software is operatively configured to enable the computer to conduct the pari-mutuel gaming activity (figures 1-5 are summary), wherein, in the pari-mutuel gaming activity: at least one patron is provided with an opportunity to select at least one runner from a list of runners displayed on the display element (figures 3-5; wherein selecting at least one runner from a list of runners displayed is shown); the at least one patron is presented with an opportunity to place at least one first wager on a race displayed on the display element in response to the at least one patron selecting the at least one runner and wherein

the at least one runner makes up a portion of the least one first wager (figures 3-5; wherein when the patron selects a runner, the probable payouts for that particular runner is shown for a particular wager shown); and the at least one patron is presented with an opportunity to place at least one second wager on the race displayed on the display element in response to the at least one patron placing the at least one first wager with the input device (figures 3-5 and paragraphs [0040-0046]; wherein the patron is capable of placing another wager shown).

***Response to Arguments***

3. Applicant's arguments with respect to claims 26-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Thursday, 09:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. R./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714